

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DARRYL R. CHAMBERS,

Plaintiff,

vs.

DELA CRUZ, Case Manager, Tecumseh State Prison, All employed at Lincoln Correctional Center; SCOTT FRAKES, Director, All employed at Lincoln Correctional Center; COLEMAN, Case Manager, Nebraska State Penitentiary, All employed at Lincoln Correctional Center; AMANDA CHADWICK, Unit Manager; ZAMORA, Case Manager; CROWDER, Case Manager, All employed at Lincoln Correctional Center; CATHY SHEIR, Warden, All employed at Lincoln Correctional Center; SHERWOOD, Case Manager, All employed at Lincoln Correctional Center; HANSEN, Warden; ATHENA THOMAS, Unit Administrator, All employed at Tecumseh Correctional Center; HARDY, Corporal, All employed at Tecumseh Correctional Center; PAM HILLMAN, All Employed at Tecumseh Correctional Center; BRAD HANSEN, Warden, All employed at Tecumseh Correctional Center; HARBANS S. DEOL, D.O.; JOHN DOE NOS. 1-5, and CRAIG GABLE, Warden;

Defendants.

**4:19-CV-3047**

**ORDER**

This matter is before the Court on limited remand by the Eighth Circuit Court of Appeals for calculation and collection of appellate filing fees. Because Chambers has stated that he is incarcerated, he is subject to the rules promulgated by the Prison Litigation Reform Act (PLRA). See 28 U.S.C. § 1915. Therefore, under the procedure outlined in *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997), the Court must calculate Chambers's initial partial filing fee and collect it before he may proceed on appeal.

28 U.S.C. § 1915 requires a prisoner wishing to appeal *in forma pauperis*<sup>1</sup> to “submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the . . . notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(2). The prison trust account statement must be provided to the Court within 30 days of the filing of a notice of appeal. See *Henderson*, 129 F.3d at 484.

The procedure outlined in *Henderson* also states that when a district court receives a prisoner’s notice of appeal, it shall assess the appellate filing fees and process the appeal in ordinary course. See *id.* at 485. Once the prisoner provides a certified copy of the prisoner’s prison account, the Court can then calculate the initial appellate partial filing fee pursuant to 28 U.S.C. § 1915(b)(1) or determine that 28 U.S.C. § 1915(b)(4) permits an appeal without paying the initial filing fee. See *id.* If no certified copy of the prisoner’s prison account is provided, the district court “shall calculate the initial appellate partial filing fee at \$35 or such other reasonable amount warranted by available information.” *Id.*

Therefore, the Court needs a certified copy of Chambers’s prison account statement for the six months preceding his filing of a notice of appeal, which was filed on January 30, 2023, [Filing 172](#). This must be provided within thirty days of January 30, 2023. Therefore, the Court will order Chambers to file with the Court a certified copy of his prison account statement for the six months preceding January 30, 2023, by March, 1, 2023. If the Court does not receive the certified copy, it

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<sup>1</sup> The Court has already determined that Chamber’s may proceed on appeal *in forma pauperis*. [Filing 175](#). Nevertheless, he is still required to pay the filing fee, either in full or in installments. See *Ashley v. Dilworth*, 147 F.3d 715, 716 (8th Cir. 1998) (“The purpose of the [PLRA] was to require all prisoner-litigants to pay filing fees in full, with the only issue being whether the inmate pays the entire filing fee at the initiation of the proceeding or in installments over a period of time.”).

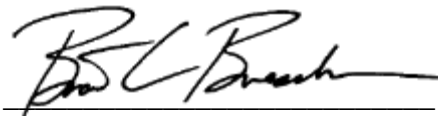
will calculate the initial partial filing fee at \$35 or such other reasonable amount warranted by available information. Accordingly,

IT IS ORDERED:

1. Chambers shall file with the Court a certified copy of his prison account statement for the six months preceding January 30, 2023, by March, 1, 2023.

Dated this 3rd day of February, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher  
United States District Judge